

Appl. No. 09/607,536

Amd. D ted November 6, 2003

Reply to Office Action of June 25, 2003

REMARKS/ARGUMENTS

Claims 8-10 and 24-26 are pending in the application. In light of the amendments and following remarks, Applicant believes all the pending claims are now in condition for allowance.

Formal Matters

Applicant appreciates the Examiner's courtesy in discussing the application on October 27, 2003. The claims and issues relating to product-by-process claims were discussed. Although no agreement was reached, Applicant believes the discussion was very helpful in identifying issues and in light of the discussion, Applicant has amended the claims to better clarify the invention.

The § 102(b) Rejection of Claims 8-10 and 24-26

Claims 8-10 and 24-26 were rejected under 35 USC § 102(b) as allegedly being anticipated by U.S. Patent No. 5,837,832, issued November 17, 1998 to Chee et al. (hereinafter "Chee"). In light of the amendments, Applicant believes this rejection is overcome.

The specification of the subject application teaches how labeled control targets hybridize to substrates of the invention (see, e.g., page 18, lines 4-27 and Figs. 11A-C). Accordingly, claim 1 was amended to add this feature:

a plurality of labeled control targets hybridized to the polymer probes having the same desired sequence wherein there is lower hybridization of the plurality of labeled control targets to the at least one of the polymer probes that does not have the same actual sequence

As the claim recites, the labeled control targets exhibit lower hybridization with the polymer probes on the substrate, which as shown by Fig. 11C, for example, results in a different substrate or product.

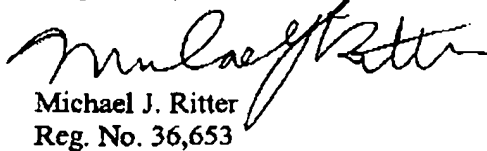
Chee has not been shown to disclose the substrate as now claimed. Accordingly, it is believed the rejection is overcome and the claims are patentably distinct over all the cited references.

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Conclusion

For the foregoing reasons, Applicant believes all the pending claims are in condition for allowance and should be passed to issue. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at (408) 446-8693.

Respectfully submitted,



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